

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION**

**ORDER BY CONSENT
ISSUED TO**

**ROCKBRIDGE COUNTY, VIRGINIA
ROCKBRIDGE COUNTY SANITARY LANDFILL
SOLID WASTE PERMIT NO. 75**

SECTION A: Purpose

This is a Consent Order issued under the authority of Sections 10.1-1455 of the Code of Virginia between the Virginia Waste Management Board and Rockbridge County, Virginia, to resolve certain alleged violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Order" means this document, termed a Consent Order under the authority of the Virginia Waste Management Act.
3. "Waste Board" means the Virginia Waste Management Board, a permanent Citizens' Board of the Commonwealth of Virginia described in Va. Code §§ 10.1-1401 and 10.1-1184.

4. "The County" means Rockbridge County, Virginia.
5. "RCSLF" means the Rockbridge County Sanitary Landfill.
6. "DEQ" means the Virginia Department of Environmental Quality, an independent administrative agency within the executive branch of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
7. "VRO" means DEQ's Valley Regional Office.
8. "Director" means the Director of DEQ, whose powers and duties are described in Va. Code § 10.1-1185.
9. "VSWMR" means the Waste Board's Solid Waste Management Regulations, 9 VAC 20-80-10 et seq.

SECTION C: Findings of Facts and Conclusions of Law

1. On September 22, 1972, the Virginia Department of Health (the predecessor of DEQ for regulation of solid waste management facilities) issued Solid Waste Permit No. 75 to the County for operation of the RCSLF. The RCSLF is located approximately two miles northwest of Buena Vista.
2. On October 31, 2002, and November 6, 2002, staff of the VRO conducted solid waste compliance inspections at the RCSLF. Based on observations made during these inspections, DEQ issued Notice of Violation No. WS-02-10-VRO-032 to the County on November 14, 2002, citing the following apparent violations of the VSWMR:
 - a. Failure to completely cover all solid waste at the end of the workday in apparent violation of 9 VAC 20-80-250.C.2.c of the VSWMR;
 - b. Failure to control disease vectors (vultures and crows) in apparent violation of 9 VAC 20-80-250.C.4 of the VSWMR;
 - c. Failure to keep the open working face as small as practicable and in accordance with the tipping demand for unloading (use of two working faces) in apparent violation of 9 VAC 20-80-250.C.13.f of the VSWMR; and,
 - d. Failure to maintain the access roads to the southern working face and borrow pit in order to be passable by earth moving equipment in apparent violation 9 VAC 20-80-250. C.13.e of the VSWMR.

3. On December 17, 2002, DEQ staff met with representatives of the County in an informal settlement conference to discuss the apparent violations cited by DEQ.
4. Following DEQ's November 6, 2002, inspection of the RCSLF, the County placed daily cover on the exposed waste observed by DEQ.
5. At the recommendation of DEQ staff, Rockbridge County has prepared a ***Daily Cover Placement Policy***, dated December 27, 2002, as a measure to prevent recurrence of the referenced apparent violations of the VSWMR. According to the County, all RCSLF employees are to be trained regarding the policy's requirements and all employees will be furnished with a copy of the policy.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders Rockbridge County, and Rockbridge County voluntarily agrees, to pay a civil charge of **\$4,410** within 30 days of the effective date of the Order in settlement of the apparent violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The payment shall include Rockbridge County's Federal ID number and shall state that it is being tendered in payment of the civil charge assessed under this Order

SECTION E: Administrative Provisions

1. This Order only addresses and resolves those apparent violations specifically identified herein, including those matters addressed in Notice of Violation No. WS-02-10-VRO-032 issued to the County on November 14, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
2. For purposes of this Order and subsequent actions with respect to this Order, the County

admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

3. The County declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any and all other facts and conclusions of law, including any action taken by the Board to enforce this Order.
4. Failure by the County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
5. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
6. The County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The County shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 72 hours of learning of any condition above, which the County intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

7. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
8. This Order shall become effective upon execution by both the Director or his designee and the County. Notwithstanding the foregoing, The County agrees to be bound by any compliance date which precedes the effective date of this Order.
9. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the County. The County may petition the Director to terminate the Order following completion of all actions required under the Order. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve the County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
10. By its signature below, the County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this ____ day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

Rockbridge County voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _ day of _____, 2003, by _____, who is
(name)

_____ of Rockbridge County on behalf of Rockbridge County.
(title)

Notary Public

My commission expires: _____.